



491532

RECEIVED MAY 06 2015

**Stephen N. Haughey**

Member

513.651.6127 (t)

SHaughey@fbtlaw.com

May 1, 2015

Via Overnight Mail

Ms. Margaret Herring, Investigator
U.S. EPA Region 5, Superfund Division
Enforcement and Compliance Assurance Branch
77 W. Jackson Blvd, Mail Code SE-5J
Chicago, IL 60604-3590

Re: Response of Flowserve Corporation to CERCLA Section 104(e) Requests for
Information for the South Dayton Dump Site in Moraine, Ohio

Dear Ms. Herring:

On behalf of Flowserve Corporation, enclosed to this letter are the Company's responses to the above-referenced Section 104(e) requests for information.

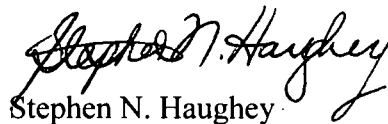
As you may know, Flowserve is one of numerous defendants in the CERCLA cost-recovery/contribution litigation that is pending in federal court in Dayton, Ohio, captioned as *Hobart Corporation et. al., v. Dayton Power & Light Company et. al.*, Case No. 3:13-cv-115, U.S. District Court, Southern District of Ohio, Western Division (Rice, J.). In the two years that discovery has been underway in the case, Flowserve has not uncovered any documents, nor discovered recollections from any retired or former employee, indicating that Flowserve's predecessor (The Duriron Company) ever disposed, directly or indirectly, of any waste, hazardous or otherwise, at the site. Nor in the numerous depositions taken in the case during the last two years has a single retired or former driver for any Dayton-area hauler testified that the driver or his company ever hauled wastes for Duriron to the site.

As a result, Flowserve contests the basis for U.S. EPA's belief that the Company is potentially liable as a successor to Duriron under CERCLA for response costs incurred at this site, and the Company again requests that the Agency provide it any information that would allegedly establish a nexus between Flowserve's predecessor and disposal of any wastes at this site.

Notwithstanding Flowserve's position, the Company understands U.S. EPA's right to request information relevant to whether Flowserve (or its predecessor) disposed of wastes at this site. Therefore, Flowserve provides these responses in good faith, but the Company nevertheless requests that the Agency delete Flowserve from the list of PRPs unless there is some nexus information provided to it that links the Company's predecessor to disposal at this site. If you have any questions regarding Flowserve's responses, please contact me. In addition, please express my appreciation to Mr. Nash for the additional time to respond to the information requests.

Very truly yours,

FROST BROWN TODD LLC

A handwritten signature in black ink, appearing to read "Stephen N. Haughey", written over a horizontal line.

Stephen N. Haughey

Enclosure

cc: Robert L. Roberts, Vice PreGlobal Litigation Counsel
Thad Driscoll, FBT

**RESPONSES OF FLOWSERVE CORPORATION TO U.S. EPA'S CERCLA SECTION
104(e) REQUESTS FOR INFORMATION PERTAINING TO THE SOUTH DAYTON
DUMP SITE IN MORaine, OHIO**

I. General Responses, Reservations, and Objections.

1. Flowserve objects to the scope of the requests for information (RFI) that have no relevance or nexus to potential waste disposal at the South Dayton Dump Site ("site") as exceeding U.S. EPA's statutory authority under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e).
2. Flowserve objects to the scope of the RFI to the extent that they seek information that is protected by the attorney-client privilege and/or attorney work-product doctrine.
3. Flowserve objects to the scope of the RFI that have no time limitation or seek information outside of the generally accepted dates during which the site operated for disposal between 1941 and 1996.
4. Flowserve's responses are based upon the recollection of former or retired Duriron employees and the investigation of old business records that still exist dating back to when Flowserve's predecessor, The Duriron Company, operated the following businesses in the Dayton area at times between 1941 and 1996:

2200 North Monument Avenue, Dayton, Ohio – titanium foundry, pump research facility, and business offices.

425 North Findley Avenue, Dayton, Ohio – main business offices.

450 North Findley Avenue – high alloy steel foundry associated with manufacture of pumps, valves and related equipment.

705 Pleasant Valley Drive, Springboro, Ohio – plastic valves/pump accessories and assembly.

3337 North Dixie Drive, Dayton, Ohio – manufacture of plastic automotive components.

Flowserve continues to look for old records and retired/former employees that are still living that might have recollections that may pertain to the site, and reserves the right to amend or supplement these responses as its investigation continues.

5. Each of Flowserve's general objections and reservations is incorporated by reference in the responses to the individual RFI below.

II. Responses to RFI.

1. Identify all persons consulted in the preparation of the answers to these questions.

Response: Robert Roberts, Vice President, Global Litigation Counsel for Flowserve Corporation, and Stephen Haughey, trial counsel for Flowserve Corporation, consulted in the review and responses to each of the RFI. Mr. Roberts has been Flowserve's designated corporate

person for responding to RFI pertaining to waste disposal sites in and around the Dayton area for the last 25 years, and thus has the greatest knowledge of historical information pertaining to former operations of The Duriron Company.

2. Identify all documents consulted, examined or referred to in the preparation of the answers to these questions, and provide copies of all such documents.

Response: Flowserve objects to the scope of this RFI because it would require production of documents that might have been reviewed previously that have no connection of any kind or relevance to waste disposal, nor to waste disposal at the site. Without waiver of this objection, Flowserve states that in the context of responding to discovery requests and Civil Rule 26(a) obligations in the ongoing litigation in the case captioned as *Hobart Corporation et. al., v. Dayton Power & Light Company et. al.*, Case No. 3:13-cv-115, U.S. District Court, Southern District of Ohio, Western Division (Rice, J.), Flowserve has already reviewed the business records of The Duriron Company that still exist, and has not found any documents indicating directly or indirectly any connection between Duriron and waste disposal at the site.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons. Provide their current, or last known, address, telephone numbers, and e-mail address.

Response: Flowserve does not currently know any person who has more detailed or complete information regarding the responses to the RFI.

4. Provide names, addresses, telephone numbers, and e-mail addresses of any individuals, including former and current employees, who may be knowledgeable about Respondent's operations and hazardous substances handling, storage and disposal practices.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site. Without waiver of its objection, Flowserve knows of no current or former employees, nor of any current or former Dayton area haulers, who have knowledge of any waste disposal for Duriron at the site.

5. State the date(s) on which the Respondent sent, brought or moved drums and/or hazardous substances to the South Dayton Dump and Landfill (SDDL) Site and the names, addresses, telephone numbers, and e-mail addresses of the person(s) making arrangements for the drums and/or hazardous substances to be sent, brought or moved to the SDDL Site.

Response: Because Flowserve has uncovered no documents, no current or former employee recollections, nor any current or former Dayton area hauler recollections indicating disposal at the site, Flowserve has no information that is responsive to this RFI.

6. Did Respondent haul or send materials to SDDL in vehicles it owned, leased or operated? If yes, during what time periods did this occur? If no, how did Respondent transport materials to SDDL? Identify the hauler(s) and provide the addresses, telephone numbers, and e-mail

addresses of these entities.

Response: No, neither Flowserve nor its predecessor, The Duriron Company, ever hauled or sent wastes of any kind to the site. In addition, Duriron never owned, leased or operated waste disposal vehicles for off-site transportation of waste, and its only on-site vehicle was a lugger truck that hauled spent foundry sand, molds and cores to the Company's own landfill located less than a ¼ mile from the foundry. The lugger truck was also never licensed for transportation on public roads.

7. List all federal, state and local permits and/or registrations and their respective permit numbers issued to Respondent for the transport and/or disposal of materials.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

8. Which shipments or arrangements were sent under each permit? If what happened to the hazardous substances differed from what was specified in the permit, please state, to the best of your knowledge, the basis or reasons for such difference.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

9. Were all hazardous substances transported by licensed carriers to hazardous waste Treatment Storage and Disposal Facilities permitted by the U.S. EPA?

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

10. List all federal, state and local permits and/or registrations and their respective permit numbers issued for the transport and/or disposal of wastes.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

11. Does your company or business have a permit or permits issued under Resource Conservation and Recovery Act? Does it have or has it ever had, a permit or permits under the hazardous substance laws of the State of Ohio? Does your company or business have an EPA Identification Number, or an identification number supplied by the State Environmental Protection Agency? Supply any such identification number(s) your company or business has.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

12. Identify whether Respondent ever filed a Notification of Hazardous Waste Activity with the EPA or the corresponding agency or official of the State of Ohio, the date of such filing, the wastes described in such notice, the quantity thereof described in such notice, and the

identification number assigned to such facility by EPA or the state agency or official.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

13. Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management. For each individual identified in response to this question provide the current or most recent known address, telephone number and e-mail address.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

14. Describe the containers used to take any type of waste from Respondent's operation, including but not limited to:

- a. the type of container (e.g. 55 gal. drum, dumpster, etc.);
- b. the colors of the containers;
- c. any distinctive stripes or other markings on those containers;
- d. any labels or writing on those containers (including the content of those labels);
- e. whether those containers were new or used; and
- f. if those containers were used, a description of the prior use of the containers.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

15. For any type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling. Provide copies of all documents relating to the transportation or disposal of said waste, including correspondence and manifests. Include all correspondence and records of communication between Respondent and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site. Without waiver of this objection, Flowserve states that it has no records of communication between Flowserve or Duriron and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr., nor any current or former employee recollections of such communications.

16. Provide copies of such contracts and other documents reflecting such agreements or arrangements.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

- a. State where Respondent sent each type of its waste for disposal, treatment, or recycling.
- b. Identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).
- c. If Respondent transported any of its wastes away from its operations, please so indicate and answer all questions related to "Waste Carriers" with reference to Respondent's actions.
- d. For each type of waste specify which Waste Carrier picked it up.
- e. For each type of waste, state how frequently each Waste Carrier picked up such waste.
- f. For each type of waste state the volume picked up by each Waste Carrier (per week, month, or year).
- g. For each type of waste state the dates (beginning & ending) such waste was picked up by each Waste Carrier.
- h. Provide copies of all documents containing information responsive to the previous seven questions.
- i. Describe the vehicles used by each Waste Carrier to haul away each type of waste including but not limited to:
 - (i). the type of vehicle (e.g., flatbed truck, tanker truck, containerized dumpster truck, etc.);
 - (ii). names or markings on the vehicles; and
 - (iii). the color of such vehicles.
- j. Identify all of each Waste Carrier's employees who collected Respondent's wastes.
- k. Indicate the ultimate disposal/recycling/treatment location for each type of waste.
- l. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.
- m. Describe how Respondent managed pickups of each waste, including but not limited to:
 - (i). the method for inventorying each type of waste;
 - (ii). the method for requesting each type of waste to be picked up;
 - (iii). the identity of (see Definitions) the waste carrier employee/agent contacted for pickup of each type of waste;
 - (iv). the amount paid or the rate paid for the pickup of each type of waste;
 - (v). the identity of (see Definitions) Respondent's employee who paid the bills;and
 - (vi). the identity of (see Definitions) the individual (name or title) and company to whom Respondent sent the payment for pickup of each type of waste.
- n. Identify the individual or organization (i.e., the Respondent, the Waste Carrier, or,

if neither, identify such other person) who selected the location where each of the Respondent's wastes were taken.

o. State the basis for and provide any documents supporting the answer to the previous question.

p. Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:

(i). the nature and chemical composition of each type of waste;

(ii). the dates on which those wastes were disposed;

(iii). the approximate quantity of those wastes disposed by month and year;

(iv). the location to which these wastes drained (e.g. on-site septic system, onsite storage tank, pre- treatment plant, Publicly Owned Treatment Works (POTW), etc.); and

(v). whether and what pretreatment was provided.

q. Identify any sewage authority or treatment works to which Respondent's waste was sent.

r. If not already provided, specify the dates and circumstances when Respondent's waste was taken to the SDDL Site, and identify the companies or individuals who brought Respondent's waste to the Site. Provide all documents which support or memorialize your response.

Response: Flowserve objects to the scope of the subparts of RFI No. 16 as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

17. Provide all Resource Conservation and Recovery Act (RCRA) Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

18. Identify (see Definitions) all federal offices to which Respondent has sent or filed information about hazardous substance or hazardous waste.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

19. State the years during which such information was sent/filed.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

20. Identify (see Definitions) all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

21. State the years during which such information was sent/filed.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

22. List all federal and state environmental laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq.; Solid Waste and Infectious Waste Regulations, OAC 3745-27 (former rule EP-20); Licenses for Solid Waste, Infectious Waste Treatment, or Construction and Demolition Debris Facilities, OAC 3745-37 (former rule EP-33); Solid and Hazardous Wastes, ORC 3734-01 through 3734-11; Open Burning Standards, OAC 3745-19-03.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

23. Identify the federal and state offices to which such information was sent.

Response: Flowserve objects to the scope of this RFI as overly broad, vague and encompassing information that has no relevance to potential waste disposal at the site.

III. Certification for RFI Responses.

I hereby certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

 Rob Roberts/SWH

(per 5/4/15 email authorization)

Rob Roberts, Esq.

Vice President, Global Litigation Counsel

FLOWERVE CORPORATION

UPS Next Day Air®
UPS Worldwide ExpressSM
UPS 2nd Day Air®

Apply shipping documents on this side.

Do not use this envelope for:

- UPS Ground

171604 REV. 2/10 LPS

- 171604 REV. 2/10 LPS

- 100% Recycled fiber
80% Post-Consumer

International Shipping Notice — Carriage hereunder may be subject to the rules relating to liability and other terms and/or conditions established by the Convention for the Unification of Certain Rules Relating to International Carriage by Air (the "Warsaw Convention") and/or the Convention on the Contract for the International Carriage of Goods by Road (the "CMR Convention"). These commodities, technology or software were exported from the U.S. in accordance with the Export Administration Regulations. Diversion contrary to U.S. law prohibited.

010195101 4/14 PAC United Parcel Service